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UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING ADMINISTRATION WASHINGTON, D. C.

July 10, 1942

Notice of Public Hearings Pertaining to Rules and Regulations under the Packers and Stockyards Act

Attached is a copy of proposed rules and regulations for the administration of the Packers and Stockyards Act, 1921, as amended.

Public hearings will be held, as listed below, at which time any person interested may present orally or in writing comments or suggestions bearing on these proposed regulations. Comments or suggestions that can not be made or presented in person may be transmitted by letter addressed to the Administrator, Agricultural Marketing Administration, U. S. Department of Agriculture, Washington, D. C., and they will be considered if received on or before August 15, 1942.

The places and dates of hearings on the proposed regulations are as follows:

Monday, July 27, 9:30 a.m. Livestock Exchange Room Exchange Building Union Stock Yards Chicago, Illinois

Wednesday, July 29, 9:30 a.m. Livestock Exchange Building Union Stock Yards Denver, Colorado

Friday, July 31, 9:30 a.m. Texas Hotel Fort Worth, Texas

Monday, August 10, 9:30 a.m. Conference Room Rooms 2860-64 South Building U. S. Dept. of Agriculture Washington, D. C.

Following the hearings, consideration will be given to all the views and suggestions presented before rules and regulations are recommended to the Secretary of Agriculture for promulgation.

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Associate Administrator

UNITED STATES DEPARTMENT OF AGRICULTURE Agricultural Marketing Administration Livestock Branch Packers and Stockyards Division

REGULATION 1 - DEFINITIONS

- Sec. 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.
- Sec. 2. When used in these regulations, the terms as defined in the Act, shall apply with equal force and effect. In addition, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:
- (a) "Registrant" means a market agency or dealer subject to title III of the Act.
- (b) "Licensee" means any person engaged in furnishing or conducting any service or facility named in Sec. 502 of the Act and who holds a valid unrevoked license from the Secretary of Agriculture as provided for by said section.
- (c) "Schedule" means a tariff of rates and charges filed by stockyard owners, market agencies, or licensees.
- (d) "Administrator" means the Administrator or Acting Administrator of the Agricultural Marketing Administration, United States Department of Agriculture, Washington, D. C.
- (e) "Administration" means the Agricultural Marketing Administration, United States Department of Agriculture, Washington, D. C.
- (f) "Livestock Branch" means the Livestock Branch of the Agricultural Marketing Administration. United States Department of Agriculture, Washington, D. C.
- (g) "Designation" means the designation of a city, market, or place where the volume of live poultry handled and the practices and devices followed are such as to require the Secretary to take jurisdiction under the provisions of title V of the Act.
- (h) "Posted Market" means a stockyard in which official forms have been posted in conspicuous places for the purpose of giving notice to the public that the stockyard comes within the definition set out in Sec. 302(a) of the Act, thereby bringing the stockyard within the jurisdiction of the Secretary.

(i) "Deposted Market" means a stockyard in which official forms have been posted in conspicuous places for the purpose of giving notice to the public that the stockyard no longer comes within the definition set out in Sec. 302(a) of the Act and therefore not within the jurisdiction of the Secretary.

REGULATION 2 - ADMINISTRATION

Sec. 1. The Administrator at Washington, D. C., shall perform such duties as the Secretary may require in enforcing the provisions of the Act and these regulations.

REGULATION 3 - APPLICABILITY

Sec. 1. These rules and regulations shall not prevent the legitimate application or enforcement of any valid by-law, rule or regulation, or requirement of any exchange, association, or other organization or any other valid law, rule, or regulation to which any packer, stockyard owner, market agency, dealer, or licensee shall be subject which is not inconsistent or in conflict with the Act and these rules and regulations.

REGULATION 4 - POSTING STOCKYARDS

- Sec. 1. After it has been determined, as provided in Sec. 302(b) of the Act, that a stockyard comes within the definition set out in Sec. 302(a), notice shall be given to the stockyard company, in person or by registered mail, and in addition notice to the public shall be given in the Federal Register and by posting copies of the notice in at least three conspicuous places in such stockyard, by an employee of the Agricultural Marketing Administration. The stockyard owner or operator shall be required to acknowledge receipt of the notice and shall furnish such plans, blueprints, or drawings of the said stockyard as the Administrator shall determine necessary.
- Sec. 2. After the notices as above outlined have been given to the stockyard owner and to the public the stockyard shall remain subject to the provisions of the Act until it has been determined. after suitable investigation, that such stockyard no longer comes within the definition set out in the Act. Thereupon, notice shall be given to the stockyard owner, that the stockyard no longer comes within the definition. There shall also be posted by an employee of the Administration, in at least three conspicuous places on the stockyard premises, appropriate notice to the public, including

notice that on and after the date of deposting jurisdiction over the operator of such stockyard shall cease, and such notice shall also be published in the Federal Register.

Sec. 3. Each owner of a posted stockyard shall report in writing to the Administrator at Washington, D. C., within ten days after any change is made in the name or address or in the management or nature or in the substantial control or ownership of the business of such stockyard owner.

REGULATION 5 - DESIGNATION

- Sec. 1. The designation of cities, markets, or places under the provisions of Sec. 502 of title V of the Act shall be accomplished after suitable investigation by the Administrator.
- Sec. 2. After it has been determined by the Secretary that a city, market, or place should be designated under the provisions of title V, public announcement thereof shall be made by publication in the Federal Register and one or more trade journals or newspapers.

REGULATION 6 - REGISTRATION

- Sec. 1. Par. 1. Application for registration (Sec. 303, title III) by market agencies and dealers at each stockyard at which they operate may be made by properly filling out and delivering to the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration, at Washington, D. C., by mail or otherwise, a form which will be furnished on request for the purpose.
- Par. 2. Registrations submitted by officers, agents, or employees of a suspended registrant who were responsible for or participated in the violation on which the order of suspension was based will not be accepted for filing within the period during which the order of suspension is in effect.
- Par. 3. Registrations submitted by persons whose existing registration is under suspension by order of the Secretary will not be accepted for filing within the period during which the order of suspension is in effect.
- Par. 4. Registrations will not be accepted when submitted by persons who incur financial obligations for which a bond is required by these regulations who have not concurrently with the filing of the application for registration filed with the Administrator a fully executed copy of a surety bond or satisfactory substitute to secure the performance of their obligations as required by these regulations.

Par. 5. Each registrant shall report in writing to the Administractor at Washington, D. C., within ten days thereafter any change of name or address or in the management or nature or in the substantial control or ownership of the business of such registrant under the Act.

REGULATION 7 - LICENSING

- Sec. 1. Application for licenses (Sec. 502(b), title V) may be made by persons subject to the licensing provisions of the amendment by properly filling out and delivering to the Administrator at Washington, D. C., by mail or otherwise, a properly executed form of application. Copies of such form will be furnished by the Administrator on request. A license will be issued to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by this act or because he is financially unable to fulfill the obligations he would incur as a licensee. To establish financial ability to fulfill such obligations, the applicant should show that he has current assets equal to his current liabilities, and, in addition thereto, sufficient free working capital to equal approximately 25 percent of his average weekly purchases and/or sales of live poultry according to his books and records, or as may be reasonably anticipated in case of a new business.
- Sec. 2. Consideration and weight may, in the discretion of the Secretary, also be given to other assets and other liabilities of the applicant in determining his financial ability to fulfill obligations which would be incurred as a licensee. If the applicant fails to make a satisfactory showing of financial ability, a license will be granted upon his executing and maintaining a satisfactory surety bond, or equivalent thereof, to a suitable trustee in accordance with the provisions of Regulation 9.

REGULATION 8 - SCHEDULES

Sec. 1. Par. 1. Each stockyard owner and market agency shall plainly state in the schedule of rates and charges filed by the stock-yard owner or market agency, the date when effective, the stockyards at which it applies, the name and business address of the stockyard owner or market agency, the kind of livestock, the nature of the service, and the terms or conditions under which the service will be rendered.

- Par. 2. Each licensee furnishing or conducting services or facilities for which a charge is made shall plainly state in the schedule of rates and charges (Sec. 504. title V, which incorporates by reference Sec. 306, title III) filed by such licensee, the date when effective, the city, place, or market at which it applies, the name and the business address of the licensee, the nature of the service or facilities furnished, and the terms or conditions under which the service will be rendered.
- Par. 3. Schedules of rates and charges and amendments thereto of stockyard owners, market agencies, and licensees shall be printed or typed on paper which is approximately 8 by 11 inches in size, the lines of print or type being horizontal to the 8-inch dimensions. Two copies of each such schedule or amendment shall be filed with the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration at Washington, D. C., at least one of which shall be signed by the market agency, stockyard owner, or licensee filing the same.
- Par. 4. The schedules of each market agency, stockyard owner, and licensee shall be designated by successive numbers as filed. Each such schedule shall be divided into sections which shall provide for the various classes of services furnished by the market agency, stockyard owner, or licensee. Each amendment of such schedule shall be numbered, and shall show the number of the schedule of which it is an amendment. Each such amendment shall in its body make adequate reference to the section or sections of the schedule which is amended, and shall set forth such section or sections in full in the amended or supplemental form. Each amendment shall indicate the numbers of such amendments to the original schedule as are in effect. After a market agency, stockyard owner, or licensee has filed 30 amendments to its schedule, any further change in the rates or charges shall be embodied in a new schedule which shall contain all rates and charges then in effect: Provided, however, That not more than 10 amendments relating to charges other than for feed may be filed without filing and publishing a new schedule.
- Par. 5. Each stockyard owner, market agency, and licensee shall also file with the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration at Washington, D. C., two copies of every rule or regulation, or set of rules or regulations, and of each amendment or supplement thereto, properly printed or typed, which in any manner change, affect, or determine any part of the aggregate of the rates or charges of such stockyard owner, market agency, or licensee, or the value of the services furnished.
- Par. 6. All schedules and rules or regulations and amendments thereto required to be filed under this Act shall be kept posted in a conspicuous public place by the market agency and stockyard owner filing same. Licensees shall post schedules of rates, charges, and rentals in a conspicuous location in their places of business where they may be

readily observed by any interested person (Sec. 504, title V). Unless the requirement as to filing and notice is specifically waived, as provided for in section 306(c) (incorporated by reference in Sec. 504, title V), all amendments to schedules or rules or regulations changing a rate or charge shall be filed with the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration at Washington, D. C., not less than 10 days before the effective date thereof and must be posted in a conspicuous public place by the market agency, stockyard owner, or licensee filing the amendment at least 10 days prior to the effective date.

- Far. 7. If the same schedule is to be observed by more than one market agency or licensee one schedule will suffice for all market agencies or licensees at any one city, place, or market observing it whose names and business addresses are shown on it, together with the name of the organization, if any, by which adopted, provided at least one copy of such schedule or amendment thereto is signed in ink by each of the market agencies or licensees observing the same, and filed with the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration at Washington, D. C.
- Par. 8. After the effective date of any general order issued by the Secretary prescribing rates, charges, practices, and regulations governing the rendition of stockyard services, or the selling or buying or the selling and buying of livestock on a commission basis at a stockyard, or governing the rendition of any services or the use of any facilities in a city, place, or market, designated by the Secretary under title V of the Act, every market agency operating on such stock—yard and every licensee operating in such city, place, or market shall conform to such order.
- Par. 9. Each stockyard operator, market agency, and licensee proposing an increase or increases in existing charges either by supplement to a filed tariff or by submission of an original tariff shall forward with the supplement or tariff proposing the increase information as to the reasons for the proposed increase and shall furnish specific and detailed data forming the basis on which the proposed increase is based, together with such additional information as the Secretary may require.
- Par. 10. The schedules of each market agency, stockyard owner, and licensee shall be designated by successive numbers as filed and shall be substantially in the form set out below:

	Tariff or Schedule of Charges No.
	Amendment No to Tariff or Schedule of Charges No
	of .
	(Operator's Name) (Operator's Business Address)
(Name Posted Yard or Designated Market where Charges Apply)
(Lo	cation Posted Yard or Designated Market where Charges Apply)
Issued	Effective
	(Ten days after receipt in Washington Office)
	(Insert here, dividing into sections, the various classes of service performed by the stockyard owner or operator, market agency or licensee, the kind of livestock or poultry concerning which services are performed, the nature of the services, and the terms or conditions under which the services are rendered.)
	(Operator's Name)
	(Signed by) (Owner, Partner, or Official Designation)

REGULATION 9 - BONDS

Sec. 1. Par. 1. Every market agency and dealer shall, on or before the date of commencement of operations, execute and thereafter maintain, or cause to be executed and thereafter maintained, a reasonable bond, satisfactory to the Secretary, to a suitable trustee to secure the performance of obligations incurred as such market agency or dealer at posted stockyards, and shall immediately file with the Administrator at Washington, D. C., a fully executed duplicate of such bond. The bond of every market agency acting in the capacity of broker or clearing agency, and thereby being responsible for the financial obligations of other registrants, shall show the name of the person or persons for whom the market agency holds itself out to be responsible and whose obligations are covered by the bond.

- Par. 2. This regulation does not have applicability to a market agency or a dealer who does not incur financial obligations in the conduct of his business as a registrant.
- Par. 3. Surety companies underwriting bonds shall be approved by the Treasury Department of the United States for bonds executed to the United States The amount of such bond shall be not less than the nearest multiple of \$1,000 above the average amount of sales or purchases, or both, of livestock by such market agency or dealer during two business days, based on the total number of the business days, and the total amount of such sales or purchases, or both, in the preceding 12 months, or in such part thereof in which such market agency or dealer did business, if any. For the purpose of this computation, 260 shall be deemed the number of business days in any year, Provided, however, that where the principal part of the livestock handled by a market agency or dealer is sold or purchased at public auction the amount of the bond should be not less than the nearest multiple of \$1,000 above an amount determined by dividing the total value of the livestock sold or purchased at auction during the preceding 12 months or such part thereof as the market agency or dealer was engaged in business by the actual number of auction sales at which livestock was sold or purchased, but in no instance shall the divisor be greater than 154. In any case, however, the amount of bond shall be not less than \$2,000 and when the sales or purchases, or both, calculated as hereinbefore specified, exceed \$50,000 the amount of the bond need not exceed \$50,000 plus 10 percent of the excess. Whenever the Administrator finds any bond required hereinunder to be inadequate, such bond, upon notice, shall be adjusted to meet the requirements of this regulation. If a person applying for registration as a market agency or dealer has been engaged in the business of handling livestock in such capacities prior to the date of the application, the value of the livestock so handled shall be used in computing the amount of bond in accordance with the provisions of this regulation.
- Par. 4. Bonds shall contain conditions applicable to the activity or activities in which the market agency or dealer, or both, named as principal in the bond is engaged which conditions shall be as follows or in terms to provide equivalent protection.

Where the principal sells on commission: If the said principal shall safely keep and faithfully and promptly account for and pay to the owners or their duly authorized agents the proceeds of sales of all livestock received for sale on a commission basis by the said principal at a public stockyard as defined in the Packers and Stockyards Act.

Where the principal buys on commission: If the said principal shall faithfully and promptly execute all orders for purchases of livestock undertaken by said principal on a commission basis, on behalf of buyers, at a public stockyard as defined in the Packers and Stock—yards Act, and shall safely keep and properly disburse all funds coming into the hands of said principal for the purpose of making such livestock purchases, paying for all livestock so purchased.

Where the principal operates as a dealer (trader): If the said principal shall pay, when due, to the person or persons entitled thereto the purchase price for all livestock purchased by said principal at a public stockyard as defined in the Packers and Stockyards Act.

Where the principal "clears" and thus is responsible for the obligations of other registrants; If the said principal, acting in the capacity of broker or clearing agency, and thereby being responsible for the financial obligations of other registrants at a public stockyard as defined in the Packers and Stockyards Act, viz: (insert here the names of such registrants)

- shall (a) pay, when due, to the person or persons entitled thereto the purchase price for all livestock purchased by such other registrants; (b) safely keep and properly disburse all funds coming into the hands of said principal for the purpose of making such purchases; and (c) safely keep and faithfully and promptly account for and pay to the owners or their duly authorized agents the proceeds of sales of all livestock received for sale on a commission basis by such other registrants for whom said principal acts as broker or clearing agency.
- Par. 5. Bonds shall be in favor of a reputable, financially responsible, and disinterested trustee. Secretaries or other officers of livestock exchanges or similar trade associations and banks, trust companies or their officers are deemed suitable trustees.
- Par. 6. The bond shall contain a provision that any person damaged by failure of the principal to comply with the condition clauses of the bond may maintain suit to recover on the bond even though such person is not a party named in the bond.
- Par. 7. Every bond shall contain a provision requiring that at least ten days' notice in writing be given to the Administrator at Washington, D. C., by the party terminating such bond in order to effect its termination.
- Sec. 2, Par. 1. Surety bonds submitted by applicants for licenses as provided for by Regulation 7, Section 2, shall meet the following standards:

Such bond or equivalent shall be conditioned to secure the performance of the obligations of the licensee incurred as such and may contain such other terms and conditions not inconsistent with the requirements of this regulation as may be agreed on between the parties thereto. Where the applicant sells live poultry on commission, the bond or equivalent shall contain the following clause:

"If the said principal shall safely keep and faith-fully and promptly account for and pay to the owners or their duly authorized agents the proceeds of sales of all live poultry received for sale on a commission basis by the said principal in his capacity as a licensee."

Where the applicant operates as a dealer, the bond shall contain the following condition clause:

"If the said principal shall pay, when due, to the person or persons entitled thereto the purchase price of all live poultry purchased by said principal in his capacity as as a licensee."

The principal sum of such bord shall be equal to the amount by which the applicant fails to meet the requirements of this regulation.

Bonds shall be in favor of a reputable, financially responsible, and disinterested trustee. Secretaries of trade associations, banks, trust companies or their officers are deemed suitable trustees. The bond shall contain a provision that any person damaged by failure of the principal to comply with the condition clauses of the bond may maintain suit to recover on the bond even though such person is not a party named in the bond. Every bond shall contain a provision requiring that at least ten days' notice in writing be given to the Administrator at Washington, D. C. by the party terminating such bond in order to effect its termination.

- Par. 2. If a bond is maintained, the surety on such bond shall be a surety company approved by the Treasury Department of the United States for bonds executed to the United States. However, any other form of indemnity which is found by the Administrator at Washington, D. C., to afford substantially equivalent protection may be accepted in lieu of a bond.
- Par. 3. Fully executed duplicates of bonds or equivalents shall be filed with the Administrator at Washington, D. C.
- Par. 4. The amount of the bond furnished pursuant to the provisions of Regulation 13, Sec. 11, Par. 1, shall be equivalent to the average purchases of the buyer for the period during which credit is extended, and the surety on such bond shall be a surety company approved by the Treasury Department of the United States for bonds executed to the United States.

REGULATION 10 - PROCEEDS OF SALE

Sec. 1. No market agency or licensee shall pay the net proceeds or any part thereof. arising from the sale of livestock or live poultry consigned to it for sale, to any person other than the owner of such livestock or live poultry, or his duly authorized agent, except upon an order from the Secretary of Agriculture or a court of competent jurisdiction unless such person holds a written order executed by the owner at the time of, or immediately following, the consignment of such livestock or live poultry.

- Sec. 2. No market agency or licensee shall make such use or disposition of funds in its possession or control as will endanger or impair the faithful and prompt accounting for and payment of such portion thereof as may be due the owner or consignor of livestock or of live poultry or other person having an interest therein.
- Whenever the financial status or method of operation of any market agency or licensee receiving and buying or selling livestock or live poultry on a commission basis is found by the Administrator to be such as to endanger or impair the faithful and prompt accounting for the proceeds of sale of such livestock or live poultry , the Administrator shall require such market agency or licensee to deposit the gross proceeds from the sale of livestock or live poultry handled on a commission basis in a separate bank account designated as "Shippers' Proceeds Account" or a similar identifying designation, and thereafter, and so long as the financial condition or method of operation of such market agency or licensee shall continue in such status as to require such action, the "Shippers' Proceeds Account" shall be maintained. Such account shall be drawn on only for payment of the net proceeds to the person or persons entitled thereto and to obtain therefrom the sums due the market agency or licensee as compensation for its services as set out in its tariffs and for such sums as may be required to pay all legal charges against the consignments of livestock or live poultry as the market agency or licensee may, in its capacity as agent, be required to pay for and on behalf of the owner or consignor. For the proper maintenance of such accounts and in order to expedite examination thereof by duly authorized representatives of the Administration, the market agency or licensee in each case shall keep the accounts in a manner which will clearly reflect the handling of the monies in compliance with the requirements of this regulation,

REGULATION 11 - ACCOUNTS AND RECORDS

· Sec. 1. Par. 1. Each market agency shall, before the close of the next business day following the sale of any livestock consigned to it for sale, transmit or deliver to the owner of the livestock, or his duly authorized agent the net proceeds received from the sale and a true written account of such sale, showing the number, weight, and price of each kind of animal sold, the name of the purchaser, the date of sale, the commission, yardage and other lawful charges and such other facts as may be necessary to complete the account. Each licensee acting as a broker, factor, or commission merchant shall, before the close of the next business day following the sale of live poultry consigned to it for sale, transmit or deliver to the owner of the live poultry or his duly authorized agent the net proceeds received from such sale and a true written account thereof showing the number of pounds and the price of each kind of poultry sold, the date of sale, the name of the purchaser, the commission, coop unloading and other lawful charges and such other facts as may be necessary to complete the account.

- Par. 2. Each market agency shall, promptly, following the purchase of livestock on a commission 'asis, transmit or deliver to the person for whose account such purchase was made or his duly authorized agent, a true written account of the purchase showing the number, weight, and price of each kind of animal purchased, the name or names of the person from whom purchased, the date of purchase, the commission and other lawful charges and such other facts as may be necessary to complete the account.
- Sec. 2. In addition to other necessary records an accurate record of the number of head of each class of livestock received, shipped, and disposed of locally each day shall be kept by each stockyard owner. Each registrant tuying or selling or buying and selling livestock on a commission basis or otherwise, in addition to other necessary records, shall keep an accurate record of the number and weight of livestock bought or sold or bought and sold each business day, the prices paid or received therefor, and the charges made for services. Each licensee buying or selling or buying and selling live poultry on a commission basis or otherwise, in addition to other necessary records, shall keep an accurate record of the number of pounds of live poultry bought or sold or bought and sold each business day, the price paid or received therefor, and the charges made for services and facilities.
- Sec. 3. No market agency or licensee acting as broker, factor, or commission merchant shall knowingly sell or dispose of livestock or live poultry consigned to it to any person in whose business such market agency or licensee or any stockholder, owner, officer, or employee thereof has a pecuniary interest except when such market agency or licensee promptly discloses such fact in accounting to the owner or consignee of such livestock or live poultry.
- Seq. 4. Par. 1. Each purchase or sale or purchase and sale of live poultry in interstate commerce by licensees in designated markets shall be evidenced by the issuance of a ticket by the seller. Each ticket shall show the name of the designated market, the date of the transaction, the names of the seller and buyer, the number of coops and kind of poultry, the price per pound. Each ticket shall be legibly signed by a representative of the seller and of the buyer and when thus signed shall constitute the contract of purchase and sale. One copy of such ticket shall be retained by the seller. On request a copy shall be furnished to the buyer, and a copy shall be transmitted with an accounting of the sale to the owner or consignor of the live poultry if the transaction is one on a commission basis. In the absence of proof of error or fraud, settlement between seller and buyer shall be on the basis of the duly executed and signed tickets required by this regulation.
- Par. 2. Scale tickets used to evidence the purchase or sale or purchase and sale of livestock or live poultry shall show the name of

the stockyard or licensee, the date of weighing, the name of the seller, and the name of the buyer, or a suitable designation by which the buyer may be identified, the name of the consignor, if the transaction is on a commission basis, the number of head, kind, and actual weight of the livestock, the amount of dockage, if any, and the name of the person who weighed the livestock or live poultry. In the case of live poultry the scale ticket shall show the number of coops weighed, the gross. tare, and net weights. Only duly authorized representatives of governmental agencies, stockyard owners or licensees shall weigh livestock or live poultry and execute and issue scale tickets evidencing such weighing. Scale tickets issued under this regulation shall be in triplicate form, serially numbered, and the material shall conform to the specifications of the National Bureau of Standards. One copy shall be retained by the agency, stockyard owner or licensee issuing same, one copy by the seller and one copy by the buyer. Duly authenticated copies shall be furnished on request to any owner or consignor whose livestock or live poultry has been sold on a commission basis. In case errors or other conditions necessitate corrections or changes on executed tickets, new and correct tickets shall be duly executed and attached to original tickets.

- Sec. 5. No stockyard owner, registrant, or licensee shall destroy or dispose of any books, records, documents, or papers which contain, explain, or modify transactions in his business under the Act, without the consent in writing of the Administrator.
- Sec. 6. Each stockyard owner shall furnish to the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration at Washington, D. C., true copies of all contracts, or changes therein, between such stockyard owner and packing, rendering, serum, fertilizer, and other establishments relating to the business of the stockyard owner, except when it is shown that copies of such documents in the form in which they are effective are already in the possession of the United States Government at Washington and available to the Secretary.
- Sec. 7. No market agency or licensee, in connection with the sale of livestock or live poultry on a commission basis, shall give to any person, who does not have an interest in the consignment or a statement in writing from the owner thereof authorizing the market agency or licensee so to do, any copy of an account of sale or other document which will reveal to such unauthorized person any of the confidential information shown on such papers relating to the price at which livestock or live poultry was sold and the net proceeds thereof remitted to the owner or consignor: Provided, however, that this shall not be construed to prevent a market agency or licensee from furnishing to a trucker, hauling livestock or live poultry for hire, information as to the weight of such livestock or live poultry in order that the trucker may have the necessary facts on which to base his hauling charges.

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REGULATION 12 - PATRONAGE DIVIDENDS

- Sec. 8. Par. 1. Each market agency which is a cooperative association of producers may return to its members, on a patronage basis, its excess earnings on their livestock, and shall keep such accounts and records as will clearly and accurately disclose the names and addresses of members, the date on which membership was acquired, the number of head and species of livestock consigned by each member and other facts necessary to show the basis on which excess earnings are returned to the members.
- Par. 2. No patronage dividends shall be paid to consignors who are mere patrons of a cooperative association of producers but who are not members thereof at the time their livestock is sold by the cooperative market agency.
- Par. 3. No patronage dividend shall be paid to a member of a cooperative association of producers on livestock which such member has not produced or which such member has not fed or prepared on his own account for market on his farm or in his feedlot.
- Par. 4. Members of market agencies which are cooperative associations of producers shall have a voice in its management and be subject to its responsibilities, as well as entitled to its benefits.

REGULATION 13 - TRADE PRACTICES

- Sec. 1. A packer, stockyard owner, registrant, or licensee shall not knowingly make, issue, or circulate any false or misleading report, record, or representation concerning livestock or live poultry market conditions or the price or sale of any livestock or live poultry.
- Sec. 2. No market agency or licensee engaged in the business of selling or buying or selling and buying livestock or live poultry on a commission basis or otherwise shall give any trucker delivering livestock or live poultry for owners or consignors any money, gratuties, or things of value. Bona fide loans by a market agency or licensee to a trucker or shipper of livestock or live poultry shall be evidenced by the execution of a note, properly secured, bearing a legal rate of interest and having a definite due date.
- Sec. 3. When livestock or live poultry is bought or sold or bought and sold on a weight basis by persons subject to the provisions of this Act, settlement therefor shall be on the basis of the actual weight, ascertained at the time title passes, unless error be shown or unless shrinkages or other deductions in weight based on the condition of the

livestock or live poultry at time of sale be stated in appropriate rules filed with and as a part of the schedules of rates and charges.

- Sec. 4. No market agency engaged in the business of selling and buying livestock on a commission basis shall use any livestock consigned to it for sale to fill orders except at a price equal to or higher than that bid by any legitimate buyer after such consigned livestock has been offered for sale on the open market and all legitimate buyers have been offered an opportunity to look at and bid on such livestock.
- Sec. 5. Par. 1. Whenever any market agency, engaged in the business of selling livestock on a commission basis, at auction, offers livestock for sale which is owned by such market agency, the fact of such ownership shall be publicly announced by the market agency at the beginning of the sale of the livestock.
- Par. 2. Whenever livestock offered for sale at auction is "bid in" or bought by the market agency or by any person in whose business the market agency has a pecuniary interest, the facts respecting the transaction shall be publicly announced by the market agency at the conclusion of the transaction with respect to such livestock. This shall not preclude the bona fide owner or consignor of the livestock from exercising his right to make at least one bid on his livestock during the course of the sale.
- Sec. 6. Every market agency and licensee engaged in business of selling livestock or live poultry on a commission basis shall offer livestock or live poultry consigned to it on the open market for sale to the highest bidder and shall sell such livestock or poultry at the highest bid received. In all instances the market agency or licensee shall sell each consignment of livestock or live poultry on its merits and shall not intermingle, prior to sale and for purpose of sale, the livestock or live poultry belonging to one consignor with livestock or live poultry belonging to another and different consignor unless the consent of the several consignors has been obtained in advance, nor shall a market agency or licensee make the sale of one consignment of livestock or live poultry conditional on the sale of another different consignment of livestock or live poultry without the consent of the owners.
- Sec. 7. Whenever a market agency or licensee takes to its own account livestock or live poultry consigned to it for sale, it shall publish a notice to this effect in its tariff and shall charge no commission for selling such livestock or live poultry.
- Sec. 8. Par. 1. No market agency or licensee shall permit an employed salesman to deal in livestock or live poultry consigned to the market agency or licensee for sale on a commission basis.
- Par. 2. A market agency or licensee who sells livestock or live poultry consigned to it for sale on a commission basis to a dealer or

licensee whose financial obligations are cleared by such market agency or licensee shall report that fact in accounting to the owner or consignor of the livestock or live poultry.

- Sec. 9. Before any market agency takes title to livestock consigned to it for sale on a commission basis or uses such livestock to fill an order on a commission basis, such market agency shall post a motice in a conspicuous place on the pen in which the livestock is held for sale, stating the price that the agency is prepared to pay for the livestock. The notice shall show the date and hour at which it was posted. Title to the livestock shall not be taken by said agency. nor shall such livestock be used to fill an order unless within two hours after the posting of the notice no higher price has been offered for the livestock by any other buyer on the market. If the agency is unable to secure a higher price than that which it has offered for the livestock and takes title thereto or uses the livestock to fill an order, the notice which has been posted shall be attached to the copy of the account sale or to the copy of the purchase order which the agency is required to maintain in its files, and the full facts shall be reported in accounting to the owner or consignor.
- Sec. 10. Par. 1. No market agency or licensee shall solicit consignments of livestock at or on stockyard premises or in designated areas or after such livestock or live poultry has been billed or consigned to a market agency or licensee and is in course of transportation for delivery to the consignee.
- Par. 2. No market agency or licensee, in soliciting consignments of livestock or live poultry shall make so-called "guarantees" to the owners thereof that such livestock or live poultry will be sold at a specific price or prices if consigned to the market agency or licensee for sale on a commission basis.
- Sec. 11. Par. 1. A licensee shall not sell any live poultry to any buyer who does not agree to make payment in full therefor not later than the close of the next business day following the sale, or in lieu thereof, furnish an adequate bond approved by the Administrator to gwarantee payment. In case a bond is furnished, such bond shall conform to the requirements for bonds furnished by applicants for dealers' licenses as set out in Regulation 9.
- Par. 2. A licen ee shall not sell any live poultry to any buyer who has made prior purchases from any licensee, payment for which has not been made in accordance with this regulation.
- Par. 3. A licensee who purchases live poultry shall, before the close of the next business day following the purchase of any live poultry, transmit or deliver to the owner of the live poultry or his duly authorized agent payment in full for such live poultry purchased, or in lieu thereof furnish an adequate bond as provided for in these regulations.

Par. 4. Any licensee who shall violate the provisions of this regulation shall be liable to have his license suspended or revoked.

REGULATION 14 - SERVICES

- Sec. 1. Par. 1. Every stockyard owner, market agency. or licensee who weighs livestock at stockyards or live poultry in designated markets shall maintain and operate the scales used for such weighing so as to insure accurate weights.
- Par. 2. Stockyard owners, market agencies, or licensees who weigh livestock or live poultry shall cause the scales used for that purpose to be adequately tested by competent agencies at suitable intervals in accordance with instructions of the Administrator, copies of which will be furnished to each stockyard owner, market agency, or licensee who weighs livestock and live poultry for purposes of purchase or sale in interstate commerce.
- Par. 3. Stockyard owners, market agencies, or licensees shall employ only competent persons to operate scales for weighing livestock and live poultry for the purposes of purchase or sale in interstate commerce. They shall require such employees to operate the scales in accordance with instructions of the Administrator, copies of which will be furnished to each stockyard owner, market agency, or licensee who employs persons to operate scales used for the purposes herein indicated.
- Par. 4. Stockyard owners, market agencies, or licensees, who weigh livestock and live poultry for purposes of purchase or sale, shall furnish reports of tests and inspections of scales used for these purposes, on forms which will be furnished by the Administrator on request. When executed one copy of such form shall be retained by the stockyard owner, market agency, or licensee, one copy shall be retained by the agency conducting the test and inspection of the scales, and the third copy shall be delivered to the local supervisor of the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration, having charge of the work under the Act in the particular district in which the scales being tested are located. In case the test and inspection of scales as herein required are conducted by an agency of a State or municipality or other governmental subdivision, the forms ordinarily used by such agency for reporting tests and inspections of scales shall be accepted in lieu of the forms furnished for this purpose by the Administrator, provided that the test and inspection forms used by the State or other governmental agency contain substantially the same information as that required by the official form.
- Par. 5. Each stockyard owner, market agency, or licensee shall, before again using a scale, make such repairs, adjustments, or replacements on the scale as may be found necessary on test and inspection to

put the scale in a condition to give accurate weights.

- Par. 6. Stockyard owners, market agencies, or licensees or their employees shall reweigh livestock or live poultry on request of duly authorized employees of the Administration.
- Par. 7. Stockyard owners, market agencies, or licensees who provide so-called "catch weights" not for purposes of purchase or sale of livestock or live poultry in commerce shall plainly show on the scale tickets or other records used in connection with such weights the fact that they are "catch weights" and not weights to be used in the purchase or sale of livestock or live poultry being handled in commerce.
- Sec. 2. Par. 1. A stockyard owner shall not discriminate unfairly with respect to the utilization of pens, alleys, or buildings for the yarding or handling of livestock or of space for packing, rendering, and other establishments, or otherwise in the services and facilities of his stockyard. A licensee shall not discriminate unfairly with respect to the utilization of facilities for the handling of live poultry at designated cities, markets, or places or discriminate unfairly otherwise in the services rendered thereat.
- Par. 2. No stockyard owner or operator shall, after notice, knowingly furnish services or facilities at his stockyard to any person who attempts to engage in the business of a market agency or dealer at his stockyard without being properly registered and bonded as required by the Act and these regulations or whose registration is under suspension.
- Par. 3. No registrant or licensee shall, after notice, knowingly furnish services or facilities or sell livestock or live poultry to or buy livestock or live poultry from any person required by this Act and these regulations to be registered and bonded or licensed who is not so registered and bonded or licensed or whose registration or license is suspended or revoked.
- Sec. 3. Par. 1. Each stockyard owner and registrant shall exercise reasonable care and promptness in respect to yarding, feeding, watering, weighing, or otherwise handling livestock to prevent waste of feed, shrinkage, injury, death, or other avoidable loss.
- Par. 2. Each licensee shall exercise reasonable care and promptness in respect to unloading, placing in coops, feeding, watering, weighing, transporting, or otherwise handling live poultry to prevent waste of feed, shrinkage, injury, death, or other avoidable loss.
- Sec. 4. Stockyard owners, market agencies, or licensees, who furnish feed or water to livestock at stockyards or live poultry in designated areas shall see that it is wholesome and fit for the purpose. They shall collect for feed so furnished according to actual or care-

fully estimated weight only and in accordance with their schedules of rates and charges filed under the act.

- Sec. 5. Stockyard owners or market agencies shall furnish adequate accommodations for the public to see and place bids on livestock offered for sale at auction, but only those persons necessary properly to handle the livestock shall be permitted in the auction ring while the auction is in progress.
- Sec. 6. Stockyard owners or market agencies shall conduct auction sales of livestock only during the hours from 8 o'clock a.m. to 10 o'clock p.m. local time.
- Sec. 7. Packers owning or operating scales on which livestock is weighed for purpose of purchase, in commerce, for slaughter shall maintain and operate such scales so as to insure accurate weights. Such scales shall be tested by a reliable and recognized agency at least twice each year. The results of such tests shall be recorded on forms supplied by the Administrator and a copy of each test report shall be forwarded to the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration, Washington, D. C., within a reasonable time after completion of the test.

REGULATION 15 - BRAND INSPECTION

Sec. 1. Par. 1. A department or agency of a State, or a duly organized livestock association of a State in which branding or marking of livestock, or both, as a means of establishing ownership prevails by custom or statute, which desires to secure an authorization to charge and collect at any stockyard subject to the provisions of this Act a reasonable, nondiscriminatory fee for the inspection of brands, marks, or other identifying characteristics of livestock originating in or shipped from such State, shall file with the Administrator an application for such authorization in writing. application shall set forth clearly facts to show that branding or marking, or both branding and marking, livestock as a means of establishing ownership prevails by custom or statute in the State. The application shall set forth additional information, including facts showing in the case of a department or agency of the State the experience, extent, and efficiency of organization, possession of necessary records, and any other factor relating to the ability of the applicant to perform the services of brand inspection, and in addition, in the case of a duly organized livestock association, the financial responsibility of the applicant and evidence of its organization. The application shall further state the name or names of the stockyards at which the applicant proposes to perform this

service, and the fee which applicant proposes to charge for rendering the service.

- Par. 2. In case two or more applicants for authorizations to collect a fee for inspection of brands, marks, or other identifying characteristics of livestock are received from the same State, and the facts set forth in the applications show such action to be necessary in order to reach a proper determination, a hearing will be held at Washington, D. C., or at the discretion of the Administrator at such other point as may be most convenient to the parties. Such hearing shall be conducted by an employee of the Administration designated by the Administrator. At the hearing the parties who have made application will be afforded an opportunity to present evidence in support of their requests for authorization. Such evidence shall include, but shall not be limited to, a showing as to the xperience, financial responsibility, extent and efficiency of organization, possession of necessary records, and any other factor relating to the ability of the applicant to perform the proposed service. Commissioner, Secretary, or Director of Agriculture, or other appropriate officer or agency of the State, may appear at such hearing and make recommendation, or furnish information for the guidance of the Secretary of Agriculture as to the qualifications of each or all of the applicants in such State. On the basis of the record of the hearing, a determination will be reached and a decision made as to the applicant best qualified, and such applicant shall be duly authorized to perform the service in accordance with the provisions of Section 317.
- Par. 3. The authorization issued under the provisions of Section 317 and of these regulations shall state with particularity the name of the department or agency of the State, or of the duly organized livestock association of the State to which the authorization is issued. Such authorization shall continue in force and effect until such time as the Secretary of Agriculture, under authority of Section 317(d) shall suspend or revoke it.
- Par. 4. Immediately upon the issuance of an authorization to an agency or an association, said agency or association shall register at each market at which it will furnish brand inspection service as a market agency with the Administrator on forms which will be furnished for that purpose, and shall file a schedule of its rates or charges for performing the service. Such schedule shall be filed in the manner and form prescribed by Regulation 3, and shall state clearly the nature of the services performed thereunder.
- Par. 5. Authorized agencies or associations shall maintain adequate records showing in detail the income derived from the collection of authorized fees, the disbursement of same as expenses for conducting the services, the inspections performed, and the results

- thereof. They shall also maintain currently records of the brands, marks, or other identifying characteristics of livestock located in the State from which such agency or association will operate, and with reference to which the authorization has been granted.
- Par. 6. Persons registered as market agencies selling livestock on a commission basis, at stockyards where an agency or association has been authorized under the provisions of this Act to collect a reasonable fee, shall deduct from the proceeds of the sale of livestock bearing brands, marks, or other identifying characteristics which have been inspected by the authorized agency or association, the fee as set forth in the tariffs filed by the agency or association and in effect at the time the services are rendered, and shall pay over to the authorized agency or association the amount of such fees. Said market agencies in accounting to the owner or consignor of the livestock on which such fees are collected shall clearly show the amounts deducted from the proceeds for the payment of such fees and the purpose for which the payments are being made.
- Par. 7. An agency or association authorized to collect reasonable fees for the service of inspecting brands, marks, and other identifying characteristics of livestock, shall render at the close of each calendar year, or portion thereof that said authorization has been in effect, a report on form prescribed by the Administrator, setting forth the facts with respect to the income, expenses, and financial condition of such agency or association, provided that in case the authorized agency is a department or agency of a State, information with respect to the financial condition thereof shall not be required as a part of the report.
- Par. 8. An authorized agency or association may make arrangements with an association or associations in the same or in another State, where branding or marking livestock prevails by custom or statute, to perform brand inspection service at posted markets on such terms and conditions as may be approved by the Administrator; provided such arrangements will tend to further the purposes of the Act and shall not result in duplication of charges or services.
- Par. 9. The terms "brands, marks, or other identifying characteristics" shall be taken to mean all devices of a permanent and artificial character customarily used to identify livestock but shall not include markings or devices of a temporary nature or natural characteristic such as color or breed.

REGULATION 16 - GENERAL

Sec. 1. Each packer, stockyard owner, registrant, and licensee shall give to the Administrator or his duly authorized agent, at such time in writing or otherwise, and under oath or affirmation if requested

by such officer, any information concerning the business of the stockyard owner, registrant, or licensee which may be required in order to carry out the provisions of the Act and the rules and regulations thereunder.

- Sec. 2. Each stockyard owner, registrant, and licensee shall, during ordinary business hours, permit any representative of the Packers and Stockyards Division, Livestock Branch, Agricultural Marketing Administration, designated by the officer in charge thereof to enter the place of business and inspect any or all property in the possession or control and all records pertaining to the business of the stockyard owner, registrant, or licensee as such, in order to carry out the provisions of the Act and the rules and regulations thereunder, Any necessary facilities for such inspection shall be extended to such representative by the stockyard owner, registrant, or licensee, his agents and employees. Such representative shall be the Secretary's duly authorized agent for the purposes of these regulations.
- Sec. 3. No agent or employee of the United States shall, without the consent of the packer, stockyard owner, registrant, or licensee concerned, divulge or make known in any manner, except to such other agent or employee of the United States as may be required to have such knowledge in the regular course of his official duties or except in so far as he may be directed by the Secretary or by a court of competent jurisdiction, any facts or information regarding the business of any packer, stockyard owner, registrant, or licensee which may come to the knowledge of such agent or employee through any examination or inspection of the business or accounts of the packer, stockyard owner, registrant, or licensee, or through any information given by the packer, stockyard owner, registrant, or licensee pursuant to these rules and regulations.
- Sec. 4. Every packer, stockyard owner, market agency, dealer, and licensee, shall, upon request of the Administrator, file annually a report on prescribed forms and within such reasonable period as he may direct. The Administrator on good cause shown or on his own motion may waive the filing of such reports in particular cases



SUPPLEMENTAL INTERPRETATIONS OF THE PACKERS AND STOCKYARDS ACT

Various interpretations and procedures in enforcing the Act are described in the regulations promulgated by the Secretary of Agriculture. For the further guidance of persons subject to the Act, the following supplemental information relating to accounts and records is furnished:

Section 401 of the Act requires every packer, stockyard owner, market agency, dealer, and licensee to keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. When the Secretary finds that the records are not so kept, he may prescribe the manner and form in which they shall be kept. Thereafter if any person fails to keep them in the manner and form prescribed or approved by the Secretary, such person shall, upon conviction, be fined not more than \$5,000 or imprisoned not more than three years, or both. The Department has not prescribed by regulation any particular system of records to be kept by persons subject to the Act. The Department recognizes that the records which may be necessary in a large business may be too complicated for a small business. What constitutes adequate records depends upon the size as well as on the nature of the business.

The Department's views as to essential records are as follows:

- (1) Packers should keep ledgers, cash books, journals, and other records generally maintained in connection with a double entry system of bookkeeping, and should keep all records, accounts, and memoranda which support the individual entries made in the general book of account.
- (2) Stockyard owners should keep ledgers, cash books, journals, and other records generally maintained in connection with a double entry system of bookkeeping, and should keep all records, accounts, and memoranda which support the individual entries made in the general books of account. Particular attention should be given to the maintenance of adequate and complete property records. These records should show all purchases and sales of land. They should also show additions, betterments, and retirements to physicial structures and equipment. Complete records should be kept relative to the depreciation reserve account. This account should show the various units of property, the amount of reserve set up against each unit, the basis upon which the annual addition to the reserve is determined, and the retirement to each unit of property at book cost as set up in the capital account. It is essential that stockyard owners maintain property accounts so that the individual units of property may be identified.

(3) Market agencies and licensees buying or selling livestock or live poultry on a commission basis should keep ledgers, cash books, journals, and other records generally maintained in connection with a double entry system of bookkeeping, and should keep all records, accounts, and memoranda which support the individual entries made in the general books of account.

Market agencies handling livestock on a commission basis should also keep records relating to freight and hauling charges, copies of correspondence relating to consignments and purchases, letters or telegrams relating to claims by consignors or others, and an itemized daily record of cash receipts and disbursements showing in detail the source of the receipts and the nature of the disbursements, and ledger records in which sales or purchases as shown by scale tickets or other records can be verified. All other pertinent papers relating to the receipt, handling, and sale of such lot of livestock or live poultry should be preserved and filed.

Each market agency and licensee selling or buying livestock or live poultry on a commission basis should also keep a complete record of all livestock or live poultry sold or purchased, showing the date of sale or purchase, whether received or shipped by freight, express, truck, or other common carrier, car initials and numbers if by freight the number and weight of livestock and number of pounds of live poultry received or shipped, the name and address of the consignor or consignee. Copies of scale tickets issued in connection with the sale or purchase of livestock or live poultry should be preserved and filed, together with copies of account sales rendered to sellers and bills rendered to buyers. In general, market agencies and licensees handling livestock or live poultry on a commission basis will be held responsible for keeping sufficiently detailed records of all transactions which may become involved in complaints filed against them.

- (4) Market agencies who make use of property, including land, pens, building, and other enclosure, scales and other equipment in the conduct of their business, should, in addition to the records mentioned in the preceding paragraph, maintain adequate and complete property records. These records should show all purchases and sales of land. They should also show additions, betterments, and retirements to physical structures and equipment. Complete records should be kept relative to the depreciation rserve account. This account should show the various units of property, the amount of reserve set up against each unit, the basis upon which the annual addition to the reserve is determined, and the retirement to each unit of property at book cost as set up in the capital account.
- (5) Dealers engaged in the business of buying or selling livestock should keep an itemized daily record of cash receipts and disbursements and other records in which purchases or sales, as shown by

scale tickets and bills, can be verified, and from which the nature and purpose of other disbursements may be identified. Dealers in general will be held responsible for keeping sufficiently detailed records of any sales or purchases which may become involved in complaints filed against them.

(6) Licensees engaged in the business of buying or selling live poultry on their own account should keep an itemized daily record of cash receipts and disbursements and other records in which sales or purchases of live poultry as shown by sales tickets, bills or invoices can be verified, together with records showing the amount and purpose of all other disbursements pertaining to the conduct of the licensee's operations. In general, licensees engaged in business as dealers will be held responsible for keeping sufficiently detailed records of all sales or purchases which may become involved in complaints filed against them.

